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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,407	07/09/2003	Phillip M. Santisi	8106.002.US	7945
James Remenick Novak, Druce & Quigg LLP 1300 Eye Street, N.W. Suite 400 East Tower Washington, DC 20005			EXAMINER	
			BRITTAIN, JAMES R	
			ART UNIT	PAPER NUMBER
			3677	•
SHORTENED STATUTORY F	PERIOD OF RESPONSE	· MAIL DATE	DELIVER	Y MODE
3 MONTHS		01/24/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)	
	10/615,407	SANTISI, PHILLIP M.	
Office Action Summary	Examiner	Art Unit	
·	James R. Brittain	3677	
The MA!LING DATE of this communicati Period for Reply	on appears on the cover sheet w	th the correspondence address	
A SHORTENED STATUTORY PERIOD FOR I WHICHEVER IS LONGER, FROM THE MAILI - Extensions of time may be available under the provisions of 37 after SIX (6) MONTHS from the mailing date of this communica - If NO period for reply is specified above, the maximum statutory - Failure to reply within the set or extended period for reply will, b Any reply received by the Office later than three months after the earned patent term adjustment. See 37 CFR 1.704(b).	NG DATE OF THIS COMMUNION CFR 1.136(a). In no event, however, may a retion. • period will apply and will expire SIX (6) MON y statute, cause the application to become AB	CATION. eply be timely filed ITHS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).	
Status			
Responsive to communication(s) filed or	n 08 November 2006		
	This action is non-final.		
3) Since this application is in condition for a		ers, prosecution as to the merits is	
closed in accordance with the practice u	•	• •	
Disposition of Claims	•		
4)⊠ Claim(s) <u>1-41</u> is/are pending in the applie	cation		
4a) Of the above claim(s) 33-38 is/are wi			
5) Claim(s) is/are allowed.			
6)⊠ Claim(s) <u>1-32 and 39-41</u> is/are rejected.			
7) Claim(s) is/are objected to.			
8) Claim(s) are subject to restriction	and/or election requirement		
Application Papers	anaror olookon roquiloment.	•	
9) The specification is objected to by the Ex			
10)⊠ The drawing(s) filed on <u>09 July 2003</u> is/ar	•	•	
Applicant may not request that any objection			
Replacement drawing sheet(s) including the			
11) ☐ The oath or declaration is objected to by	the Examiner. Note the attached	Office Action or form PTO-152.	
Priority under 35 U.S.C. § 119	•		
12) Acknowledgment is made of a claim for for a a) All b) Some * c) None of:	oreign priority under 35 U.S.C. §	119(a)-(d) or (f).	
1. Certified copies of the priority docu	uments have been received.		
2 Certified copies of the priority docu	uments have been received in A	pplication No	
3. Copies of the certified copies of th	e priority documents have been	received in this National Stage	
application from the International E	Bureau (PCT Rule 17.2(a)).		
* See the attached detailed Office action for	a list of the certified copies not	received.	
·			
·			
Attachment(s)			
1) Notice of References Cited (PTO-892)	4) T Interview S	Summary (PTO-413)	
2) Dotice of Draftsperson's Patent Drawing Review (PTO-9	48) Paper No(s	s)/Mail Date	
3) Information Disclosure Statement(s) (PTO/SB/08)	· _	nformal Patent Application	
Paper No(s)/Mail Date	6)	_	

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DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of the invention of Group I in the reply filed on June 12, 2006 is acknowledged. The traversal is on the ground(s) that no serious burden would be placed by examining more than one group of claims and that in applicant's opinion, though classified in different locations either in the same class or in a different class altogether, there would still not be a serious burden. This is not found persuasive because the inventions of Group II and III comprising a method of using a clasp and a method of making a fastening device, respectively, are not overlapping searches with the invention of Group I as shown by the different classification and each requires a different search from each other and from the invention of Group I.

The requirement is still deemed proper and is therefore made FINAL.

Claims 33-38 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply filed on June 12, 2006.

The election requirement between Species I through IV set forth in the Office action mailed July 12, 2004 is now withdrawn in view of applicant's remarks received June 12, 2006 and November 8, 2006. Applicant "identifies claims 1-38 as generic to <u>all</u> species" (remarks submitted June 12, 2006, page 3, last paragraph, line 2 with underlining provided by applicant) and "claims 39-41 can also read on Species I" (remarks submitted November 8, 2006, page 2, first paragraph, line 3). As applicant identifies all article claims to read on the clasp having a

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shape shown in figure 1 and further identifies claims 1-38 as generic to both the clasp having a shape shown in figure 1 and the clasp having a shape shown in figure 5, there is no economy to be gained at this time by maintaining the election requirement between species so the election requirement between patentably distinct species alone is withdrawn.

The restriction requirement between Groups I, II and III remains in effect.

Information Disclosure Statement .

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

The abstract of the disclosure is objected to because of the use of legal phraseology "invention" that is often used in patent claims. The term "invention" in the abstract must be changed. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: The section "Description of the Drawings" (pages 2-3) is objected to because figure 5 is not included among the described figures.

Appropriate correction is required.

Drawings

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The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sections being "in parallel two-dimensional planes" (claim 9), the "securing device comprising a plurality of flexible cords having two ends, wherein one end of each cord is connected to one or more other cords at a single position and wherein the other ends of the cords are connected to the clasp of claim 1" (claim 39) along with the single position comprising in further combination "a ring" (claim 40) or "a knot" (claim 41) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 9, so far as definite, is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no enablement for indicating how the sections defined in claim 1 are configured so to be "in parallel two-dimensional planes" (claim 9). Paragraph [0030] indicates that alternatively, sections may be configured in one or more parallel planes, but gives no indication of the configuration of the sections within parallel planes so as to enable one of ordinary skill to configure the device.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20, 23-25, 27-29, 32 and 39-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant "identifies claims 1-38 as generic to <u>all</u> species" (remarks submitted June 12, 2006, page 3, last paragraph, line 2 with underlining provided by applicant) and "claims 39-41 can also read on Species I" (remarks submitted November 8, 2006, page 2, first paragraph, line 3). However, claim 1 configures the three section such that "the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section" (lines 2-4) and the species of clasp having the shape shown in figure 5 fails to

show any perpendicular connections between sections 500, 505, 504 and 506. Indeed, paragraphs [0046] - [0048] fail to utilize language that indicates there is any perpendicular connection. The term "perpendicular" requires an angle at 90° and the species of clasp having the shape shown in figure 5 lacks the 90° angle. The language of claim 1 is therefore unclear as applicant appears to be imputing a meaning contrary to the ordinary meaning of the word "perpendicular" as applied in combination as identified above. All claims dependent on claim 1 are similarly indefinite through their dependence on claim 1. Further, the term "the sections" as found in claims 8 and 9 renders these claims indefinite because it is unclear which pair of the three sections the claim construction is referring to or if the claim construction is referring to all sections. Claims 8 and 9 are considered to have a construction wherein "the sections" refers to only the first and third sections. The limitation "the shaped rod" (claim 11) renders the claim indefinite because the term lacks antecedent basis in either claim 1 or claim 8 so that the construction fails to serve notice as to what is being referred to. The limitation "a cord attach to the attachment portions" (claim 16) renders the claim indefinite because the term "attach" is unclear in context so that claim construction fails to serve notice of the scope of the claim. The limitation "the first section separates the hook portion from the grip portion" (claim 17) renders the claim indefinite because claim 1 states that "the hook portion comprising a first section" (line 2) so that while the first section separates the second and third sections of the hook portion from the grip portion, it is not separated from itself since it forms a part of the hook portion so that the claim construction is misdescriptive. The limitation "the device" (claim 19, line 1) renders the claim indefinite because the term lacks antecedent basis in claim 1 so that the construction fails

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to serve notice as to what "device" attaches to a rack on a vehicle and is capable of securing equipment to a vehicle.

The term "the hook portion" (claim 23, line 1) renders the claim indefinite because claim 22 defines two clasps each comprising "a hook portion" so that it is not particularly pointed out which of the two hook portions the claim construction is referring to. Claim 24 refers to "the first section", "the second section" and "the third section", however this language is not used in claim 22 and is further indefinite because claim 22 defines two clasps each comprising "a hook portion" so that it is not particularly pointed out which of the two hook portions the claim construction with respect to the three sections is referring to. The limitation "the first section separates the hook portion from the grip portion" (claim 25) renders the claim indefinite because claim 22 fails to define "the first section" and as the "first section" is described as being part of the hook portion in the specification so that while the first section separates the second and third sections of the hook portion from the grip portion, it is not separated from itself since it forms a part of the hook portion so that the claim construction is misdescriptive. Further, claim 22 defines two clasps each comprising "a hook portion" so that it is not particularly pointed out which of the two hook portions the claim construction with respect to the first section found in claim 25 is referring to. The term "the shaped rounded rod" (claim 27, line 1; claim 28, line 1; claim 29, line 1) renders the respective claims in which it occurs indefinite because claim 22 defines two clasps each comprising "a pinch section formed from a shaped rounded rod" (lines 2-3) so that it is not particularly pointed out which of the two shaped rounded rods the claim construction is referring to. The term "the equipment" (claim 32) renders the claim indefinite

because claim 22 fails to define "the equipment" so that it doesn't serve notice of the scope of the claim.

Claim Rejections - 35 USC § 102

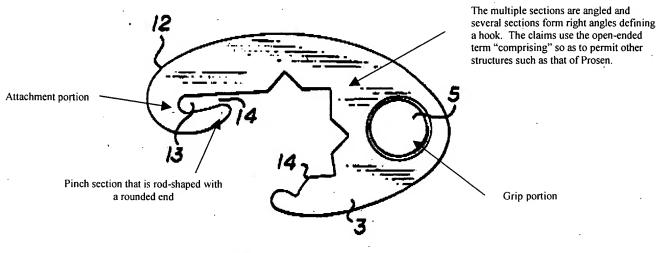
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-11, 15, 16, 18, 19 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Prosen (US 5035558).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.



F16.5

Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. As applicant has indicated that claim 1 is generic to the clasp of figure 5 of applicant's drawings, the claim construction appears to permit non-perpendicular portions in the same manner as applicant's figure 5 has non-perpendicular sections. As to claims 6-8, these relative dimensions are formed by sections of the hook portion of Prosen's device. In regard to claim 9, figure 6 of Prosen shows the hook portion in a single plane. As to claim 10, figure 5 shows that it is possible to configure planes perpendicular to the plane of the paper and aligned with the first and third sections. In regard to claim 11, the claims utilize the open-ended language "comprising" and the pinch section identified above is rod-shaped with a rounded end so as to meet the claim language while permitting other structure. As to claim 15, the pinch section identified above is between and therefore separates the grip portion from the attachment portion. In regard to claim 16, the pinch section identified above pinches the cord and therefore keeps that portion of the cord from entering the grip portion 5. As to claim 18, cargo is considered equipment for a purpose. In regard to claim 21, as pointed out above there are multiple straight angled portions connected together to form a hook portion.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

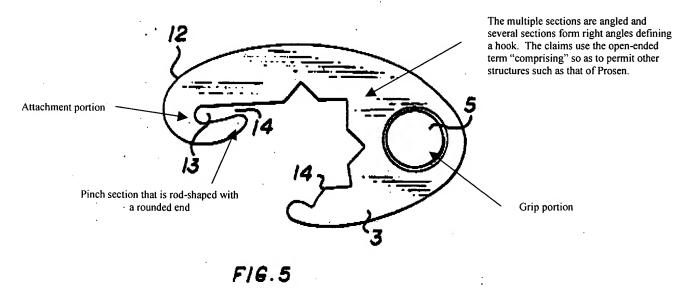
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-5, 12, 13, 22-24, 26-28, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Chuan (US 4831692).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.



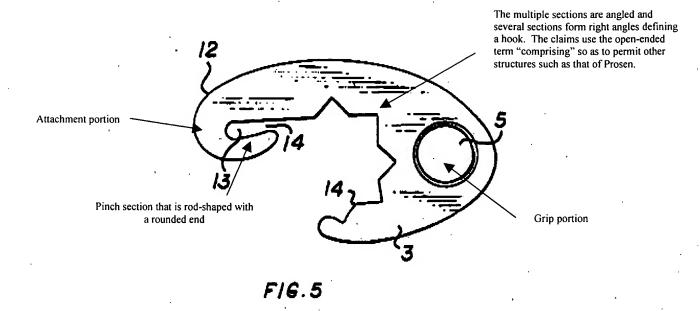
Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. The difference with regard to claim 2 is that the hook of figure 5 is an intermediate hook rather than being found at the ends of the cord. However, Chuan (figures 1-3, 5, 7) teaches that it is desirable to secure clasps with grip portions at the ends of the cord without intermediate hooks wherein there are reduced gaps in the attachment portions that would pinch the cord in a similar

manner to that of Prosen. As Prosen teaches that it is desirable to configure the hook portion with perpendicular portions for both the end hooks and the intermediate hooks and Chuan teaches that it is desirable to secure clasps with grip portions at the ends of the cord without intermediate hooks wherein there are reduced gaps in the attachment portions that would pinch the cord, it would have been obvious to modify the end hooks of Prosen so as utilize hooks with a pinching portion at the ends as taught by Chuan while maintaining the perpendicular sections taught by Prosen since Prosen wishes to keep the angular hook portion because of its greater use in securing the clasp to various shapes. As to claim 5, the devices of Prosen and Chuan describe the typical bungee cord that is well known. In regard to claim 22, this claim is rejected for the reasons identified for claim 2 with the further observation that the pinch section identified above with respect to Prosen pinches the cord and therefore keeps that portion of the cord from entering the grip portion 5. As to claims 12, 13, 27 and 28, Chuan teaches that the use of steel is conventional for forming the hooks as would be expected because of its strength (col. 1, lines 19-25).

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Simon (US 3328064).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.

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Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. The difference is that while metal is stated as being a material (col. 2, lines 15-17), steel and aluminum are not stated as being used. It would have been obvious to utilize either steel or aluminum in view of Simon (figure 2) teaching the use of aluminum or steel as being desirable for clasps because of their ability to resist corrosion (col. 3, lines 8-12).

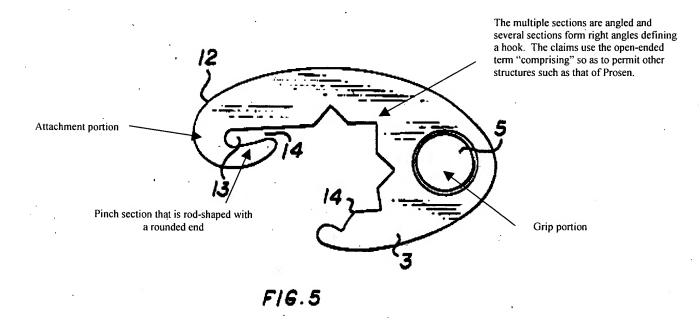
Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Chuan (US 4831692) as applied to claim 22 above, and further in view of Simon (US 3328064).

Further modification of the metal clasp of Prosen so that the metal is aluminum would have been obvious in view of Simon (figure 2) teaching the use of aluminum or steel as being desirable for clasps because of their ability to resist corrosion (col. 3, lines 8-12).

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Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Yonts (US 4842236).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.



Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. The difference is that the first section doesn't separate the grip portion from the second and third sections of the hook portion. Relocation of the grip portion of the device of Prosen so that the

first section separates the grip portion from the second and third sections of the hook portion would have been obvious in view of Yonts (figures 2, 3) teaching placing the grip portion 10 so that the first section separates the grip portion from the second and third sections of the hook portion so as to provide a useful way to apply force to attach the hook portion.

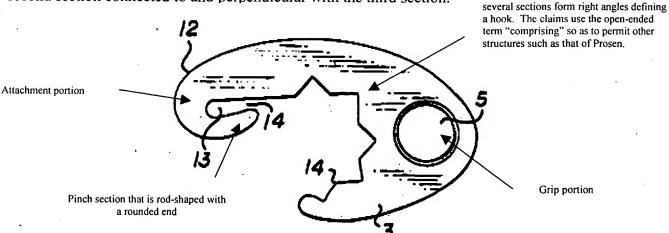
Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Chuan (US 4831692) as applied to claim 22 above, and further in view of Yonts (US 4842236).

Further modification of the metal clasp of Prosen so that the first section separates the grip portion from the second and third sections of the hook portion would have been obvious in view of Yonts (figures 2, 3) teaching placing the grip portion 10 so that the first section separates the grip portion from the second and third sections of the hook portion so as to provide a useful way to apply force to attach the hook portion.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Schrader (US 6113327).

Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section.

The multiple sections are angled and



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Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. The difference is that the cargo isn't listed as a ladder. However, bungee cords are typically used for holding down many items to vehicle racks and Schrader (figure 11) shows that the cargo or equipment can be in the form of a ladder. Therefore, it would have been obvious to utilize the clasp of Prosen to secure a ladder in view of Schrader teaching such a well known use.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prosen (US 5035558) in view of Chuan (US 4831692) as applied to claim 22 above, and further in view of Schrader (US 6113327).

Further modification of the metal clasp of Prosen so that the clasp and bungee cord is utilized to secure a ladder would have been obvious in view of Schrader (figure 11) teaching that the cargo or equipment can be in the form of a ladder, a well known use.

Claims 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwab (US 5797167) in view of Prosen (US 5035558).

Schwab (figures 1, 2, 4) teaches a securing device comprising a plurality of cords 1, 2 having two ends apiece, wherein one end of each cord is connected to one other cord at a single position 7 and the other ends of the cords are connected to a clasp 8 to define a symmetric structure at each end. The difference is that the clasp fails to have a grip portion and the three perpendicular sections defined by claim 1. However, Prosen (figure 5) teaches a clasp 3 comprising a hook portion, a grip portion and an attachment portion, the hook portion comprising a first section, a second section and a third section, wherein the first section is

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connected to and perpendicular with the second section, the second section connected to and perpendicular with the third section. Prosen utilizes fabric-jacketed elastic cords, which is inherently a bungee cord, to secure loads such as cargo to vehicle racks wherein the configuration of the hook portions are adaptable to securement to a variety of surfaces such as polygonal, cylindrical and irregular surfaces. As improving the manipulation of the clasp of Schwab would be desirable as would those surfaces to which the hook portion can engage, it would have been obvious to modify the clasp of Schwab to have a grip portion and three perpendicular sections as taught to be desirable by Prosen. As to claim 41, given that Schwab joins the ends of the cord 1, 2 together in the seats of the clasp, applicant is given Official Notice that it would have been obvious to knot the ends together so as to form a better connection.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwab (US 5797167) in view of Prosen (US 5035558) as applied to claim 39 above, and further in view of Vasilopoulos (US 5722125).

Further modification of the device of Schwab so that a ring is used to join the ends of the cords would have been obvious in view of Vasilopoulos (figure 2) teaching the use of a ring 12 to unite the ends of cords to be desirable so as to form a securing fastener.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Libecco (figure 1) teaches the use of steel hooks as does Crowley et al. (US 5809620, figure 1) and Esposito et al. (US 5317788, figure 5) teach pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ames R. Brittain Primary Examiner Art Unit 3677